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No. 89-

IN THE SUPREME COURT

OF THE

UNITED STATES

October Term, 1989

RODNEY F. STICH

Petitioner

vs.

U.S. DISTRICT COURT
EASTERN DISTRICT CALIFORNIA
Respondent

Dennis Bunting, Friedman, Sloan, & Ross
Real Parties In Interest

Petition Writ of Certiorari
Suspension of Due Process
and Other Constitutional Rights

JURISDICTIONAL STATEMENT

Rodney F. Stich
Post Office Box 5
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Telephone: (415) 820-7250
Appellant in pro se

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QUESTIONS PRESENTED FOR REVIEW.

1. Did petitioner raise substantial issues on appeal, that required vacating the district court's sua sponte dismissal?

2. Did district court violate Fifth Amendment due process and equal protection rights, by dismissing complaint stating major federal causes of action of constitutional magnitude, on basis of prior unconstitutional injunctive order forever suspending for petitioner the rights and protections under the laws and Constitution of the United States?

3. May federal judges and justices concoct sham arguments to suspend all due process and equal protection to a citizen whose public-spirited exposure of major air disaster misconduct and superimposed government and judicial scandal threaten them with exposure?

4. Does a judicial racketeering enterprise exist in the Ninth Circuit courts?

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APPENDIX

App. A: Ninth Circuit Order denying reconsideration. Filed May 10, 1989.

App. B: Ninth Circuit Order refusing to process appeal, Filed April 17, 1989.

App. C: District Court's Dismissal order, filed December 18, 1988.

OPINIONS BELOW

The United States Court of Appeals rendered an order [App. "A"] filed May 10, 1989, refusing petitioner's request for reconsideration of it's April 17, 1988 dismissal [App. "B"] of the appeal before petitioner was given the opportunity to submit briefs. The district court's dismissal filed December 13, 1988 [App. "C"] was dismissed upon the basis of an earlier injunctive order forever barring petitioner from Constitutional rights and protections, and protection of legislative statutes, by denying access to the courts.

JURISDICTIONAL STATEMENT

This petition for writ of certiorari is filed pursuant to Rules 17.1 (a) (c) of the Rules of the Supreme Court of the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitutional and statutory provisions that are a part of petitioner's complaint in the district court's July 30, 1986 injunctive order and September 16, 1986 summary judgment, includes:

a. Fourteenth Amendment due process, equal protection,

property rights, and privileges and immunities clause.

b. Privileges and Immunities clause of Article IV, § 2

c. Full Faith and Credit, Article IV, § 1, and as statutorily enacted in Title 28 U.S.C. § 1738.

d. Constitutional right to unabridged interstate travel.

e. Title 42 U.S.C. §§ 1983, 1985, 1986, and Title 28 U.S.C. § 1343.

f. Title 28 U.S.C. §§ 2201 and 2202.

g. Title 18 U.S.C. §§ 1961 and 1962.

h. First Amendment right to petition government for redress of grievances.

i. Fifth Amendment right to due process, equal protection, property rights,

j. Right and responsibility to report criminal acts affecting the nation's air safety, and causing a series of air tragedies.

k. Whistleblower case and statutory law, relating to petitioner's reporting of government misconduct and felonies relating to a series of fatal air tragedies.

THE FEDERAL QUESTIONS ARE SUBSTANTIAL

Fundamental constitutional rights are violated, including:

a. Right of all citizens to invoke federal court jurisdiction, and obtain relief, when federal causes of action are violated by state judges, acting without jurisdiction, and violating clear and settled state and federal laws and Constitutions. The state judges repeatedly rendered orders under color of state law, causing great and irreparable harm, and acting without personal and without subject matter jurisdiction.

b. Protection against suspension of federal due process and equal protection, by district courts dismissing federal causes of action of constitutional magnitude in clear violation of federal law and Constitution. Petitioner has been victimized by an organized judicial scheme in the Ninth Circuit, blocking every attempt to adjudicate the issues, wrongfully making sua sponte, Rule 12 dismissal, and summary judgments for defendants, in clear violation of federal statutory and case law, federal rules of civil procedure, and fundamental constitutional rights and protections. Petitioner is judicially gridlocked from constitutional remedies while simultaneously targeted for great and irreparable harm by misuse of the judicial process. Federal judges have routinely reversed the Supreme

Court's definition of frivolous, applied the term to serious federal causes of action, and then used the frivolous label to "support" either summary judgment or FRCivP 12 dismissals.

c. Rendering lawless, unconstitutional, and corrupt injunctive orders suspending all constitutional due process for the air disaster, government, and judicial scandal whistleblower, who suffers terminal destruction of major personal and property rights from an onslaught of major civil and constitutional violations. Petitioner is barred from seeking relief in any court for past, unadjudicated, present, and future violations of major rights and protections under the laws and Constitution of the United States.

d. Judicial racketeering enterprise in the Ninth Circuit courts, arising out of a major air disaster scandal, upon which has been superimposed a major government and judicial scandal.

e. Suspension of the laws and Constitution of the United States by Ninth Circuit federal judges and justices. Petitioner is barred from adjudicating major civil and constitutional violations by the district courts, and the Court of

Appeals falsely affirm the dismissals despite the major causes of action of constitutional magnitude raised in the complaints and in the appeal. Misuse of the federal courts to engineer a scheme in the California courts using a cause of action prohibited by Supreme Court decisions, stripping petitioner of all defenses, and then barring him access to the courts after he discovered the judicial racketeering enterprise. This suspension of important federal question rights sought to obstruct petitioner's exposure of the scandal, and obstruct defenses against a sham California action. The scheme sought to block petitioner's exposure activities that threatened to expose federal judges and justices in the Ninth Circuit.

Statement Of the Case

Petitioner filed a complaint in the U.S. District Court, under authority of federal law and Constitution,[1] alleging multiple violations of rights and protections under the laws and Constitution of the United States, and of the State of California, and seeking declaratory and injunc-

[1] Title 42 U.S.C. §§ 1983, 1985, 1986; Title 28 U.S.C. §§ 1343, 2201, 2202; Title 18 U.S.C. §§ 1961, 1962; directly under the Constitution, and as a Bivens claim.

tive relief, and damages.

The complaint was dismissed sua sponte without a hearing. The dismissal sought support in holding that a prior injunctive order rendered in 1986, barring petitioner from court access and all rights and protections under the laws and constitution of the United States, permitted dismissing subsequent causes of action of constitutional magnitude.

On appeal, the Court of Appeals affirmed the dismissal, without allowing petitioner to file briefs, and without the real party in interest filing their oppositions.

Petitioner is judicially gridlocked out of the federal court system, and gridlocked from the rights and protections under law, while simultaneous major civil and constitutional, and RICO violations, are openly committed, via the judicial process.

The complaint stated that the violations arose from orders rendered by California judges, acting under color of state law, causing great and irreparable harm, in a cause of action that had been (a) held impermissible by decisions of the U.S. Supreme Court and their progeny for the past

half century;[2] (b) in which the state judges lacked personal and subject matter jurisdiction;[3] (c) in which over two dozen clear and settled state statutory laws and rules of court were violated;[4] (d) in which federal law and constitutional rights were trampled.[5]

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[2] Refusing to recognize prior divorce judgments of persons changing residence to California, by refusing to recognize exercise personal and property rights adjudicated and acquired in prior divorce judgments and jurisdictions, when the court jurisdiction was exercised upon residence, without also requiring determination of the subjective mental thought processes of domicile. Sherrer v. Sherrer, 334 U.S. 343 (1948); Coe v. Coe, 334 U.S. 378 (1948); Vanderbilt v. Vanderbilt, 354 U.S. 416 (1957); Estin v. Estin, 334 U.S. 541 (1948); Perrin v. Perrin, 408 F.2d 107 (3rd Cir. 1967).

[3] California Family Law Act is strictly limited to three causes of action, and does not provide jurisdiction to attack prior divorce judgments, and specifically bars such attacks. Rules of Court 1201(c), 1211, 1212, 1215(b), 1222, 1229, 1281, 1282.

[4] Mandatory divorce judgment recognition: Code of Civil Procedure §§ 1699(b), 1713.3, 1908, 1913, 1915; Civil Code §§ 4554, 5004, 5164; Statute of limitations: Code of Civil Procedure 318, 338, 343; Civil Code §§ 880.020, 880.250; conclusive presumption that prior court acted in the lawful exercise of jurisdiction when under collateral attack: Evidence Code § 666; and many others.

[5] Right to obtain a divorce; right to exercise personal jurisdiction upon the same residence basis as available to millions of others; Privileges and Immunities Clauses; right to unabridged interstate travel; due process; equal protection; protection of property rights from seizure of properties without due process and

UNCONSTITUTIONAL JUDGMENT AND TAKING

The defendants rendered a September 28, 1988 judgment seizing petitioner's multi-million dollar properties, assets, home, and business. The order sought support in an alleged divorce action, an alleged community property status of the assets, and allegedly under the jurisdiction of the California Family Law Act. That issue had never before come before any federal court, and never would be addressed, under the injunctive order rendered by Judge Schwartz.

In reality, petitioner (a) had been legally and factually divorced since January 30, 1966, as shown by a final divorce judgment rendered following a bilateral, consent divorce proceeding, as shown by the confirmation of that judgment as a California judgment after petitioner exercised his constitution right to change residence several years later, and further shown by the entry of the California confirmed judgment in the courts of Nevada, Oklahoma, and Texas. All divorce judgments show that on January 30, 1966, the marital relationship was cancelled (and no

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equal protection.

contact thereafter occurred between the parties), that neither party had any spousal support obligations or rights, and that all properties owned by the parties were their separate properties.

Thereafter, petitioner changed residence several times, including Oklahoma, New York, and various jurisdictions in the State of California. During the 22 years after the 1966 divorce, and before the rendering of the July 28, 1988 state court judgment, petitioner acquired approximately ten million dollars of properties, receiving title to such properties as the sole property of a divorced person.

In 1982 a cause of action was filed in the Solano County Superior Court, State of California (83472), attacking the validity of these rights and protections, on the argument, and subsequent court holdings, that California judges would not recognize these acquired rights if the 1966 court exercised personal jurisdiction upon the basis of petitioner's five month's residence. It was held that unless petitioner could prove to a California judge in 1986, that in 1966 he had the subjective mental thought processes of domicile, that all personal and property rights and protections were voidable by California judges.

Under this holding, many of the millions of divorced persons exercising their constitutional right to unabridged interstate travel, to California, could on the whim of a California judge--upheld by California Supreme Court--be stripped of all rights and protections under the laws and Constitution of the United States, and those found under clear and settled California statutory law, California constitutional protections relating to property rights and due process, and other protections.

In addition, the California judges and nonjudicial defendants mounted this attack, prohibited by years of U.S. Supreme Court decisions, under the California Family Law Act, which provides no jurisdiction for attacking prior divorce judgments.

The cause of action attacked and voided personal and property rights adjudicated in a 1966 divorce judgment; established in four subsequent judgments;[6] and acquired

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[6] Initial 1966 divorce judgment following a bilateral consent divorce proceeding, rendered by jurisdiction of residence for five months, State of Chihuahua, Mexico, No. 189723, authenticated by U.S. Consul; Registration and confirmation of the 1966 divorce judgment in the Superior Court, Contra Costa County, action number 251773, under C.C.P. § 1699(b) and C.C. § 5164; registration of the Contra Costa divorce judgment confirmation in the Superior Court, Solano Coun-

during 22 years of divorced status as a divorced person, which are protected by the Fourteenth Amendment due process, equal protection, and property right clauses.

The cause of action argued, and California judges held, that these 22 years of protected rights were void, on the basis that California judges would not recognize the exercise of personal jurisdiction by courts foreign to California, and residents of such foreign jurisdictions. On that constitutionally preposterous holding, the California judges refused to recognize the exercise of personal jurisdiction of the 1966 court, and refused to recognize the validity of petitioner's five month's residence in the 1966 court's jurisdiction.

The California judges held that unless the 1966 court exercised jurisdiction over residents of the foreign court

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ty, State of California, action 91929; judicial entry of the Contra Costa county confirmed judgment into the Nevada courts, Second Judicial District of Nevada, County of Washoe, case number 85-5391 and into foreign judgment registry, number 31; registration of the 1966 divorce judgment in the District Court of Oklahoma County, Oklahoma City, Oklahoma, Case number FD-86-5870; registration of the Contra Costa confirmed judgment in the Civil Courts of Dallas County, Dallas, Texas, in Volume Two, Page 78, Foreign Judgment Register.

jurisdiction on the basis of the subjective mental thought processes of domicile, all personal and property rights adjudicated in that divorce, all rights established in subsequent judgments, and property rights acquired during the following two decades as a divorced person, were void. Using this constitutionally preposterous argument as a base, the California judges embarked on a six year scheme that destroyed literally every right and protection under the laws and Constitution of the State of California and of the United States. The prior divorce judgment was recognized by the federal government, through the Social Security Administration, on the basis of the former wife's declaration of divorced status, and the several divorce judgments establishing that fact.

The California judges then proceeded to remarry petitioner to the Texas resident, who declared herself divorced from petitioner for the past two decades, and who repeatedly gave constructive notice of that fact in numerous real estate transaction. The California judges held that they had the authority to relitigate, twenty years later, the exercise of personal jurisdiction when petitioner changed his residence years later to the Solano County,

State of California jurisdiction; and simultaneously deny that party the right to rely upon the residence basis for exercising jurisdiction (as exercised by millions of other citizens) and substitute for residence in the relitigation, the subjective mental thought processes of domicile, insuring that a Kangaroo Court environment could "support" the refusal to recognize the 22 year old divorce judgment, and two decades of adjudicated and constitutionally protected property rights.

In this manner, the California judges could render an order seizing protected personal and property rights of virtually any citizen, and especially one who threatens to expose a major government and judicial scandal.

That holding barred highly mobile persons, or those who must change residence due to economic circumstances, the right to obtain a divorce, or the prior divorce judgment is subject to voiding by a California judge if the party exercise constitutional travel rights and changes residence to California, possible decades later.

This argument violated the constitutional right (a) to obtain a divorce while a five-month resident of the jurisdiction foreign to California; (b) violated the right to

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unabridged interstate travel;[7] (c) the privileges and immunities clause of Article 4, § 2, and Article 1, § 8, clause 18, of the Constitution, and of the Fourteenth Amendment, Ninth Amendment (in that the power to deal with violations of the right of interstate travel was "delegated to the United States by the Constitution); (d) due process and equal protection of the Fourteenth Amendment, relating to exercising jurisdiction on the basis of residence

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[7] Crandall v. Nevada, 73 U.S. 35 (1867); Shapiro v. Thompson, 394 U.S. 618 (1969) (Referring to Commerce Clause; the Privileges and Immunities Clause of Art. IV, section 2; the Privileges and Immunities Clause of the Fourteenth Amendment; and the Due Process Clause of the Fifth Amendment. "the right to travel interstate is a 'fundamental' right which, for present purposes, should be regarded as having its source in [the fifth amendment due process clause]." Kent v. Dulles (1958) 357 U.S. 116, "The right to travel is a part of the 'liberty' of which the citizen cannot be deprived with the due process of law under the Fifth Amendment ... Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country [is] basic in our scheme of values."; United States v. Guest (1966) 383 U.S. 745, "The constitutional right to travel from one State to another [occupies] a position fundamental to the concept of our Federal Union. See also, Oregon v. Mitchell 400 US 112, 27 L Ed 2d 272, 91 S Ct 260 (1970); Slaughter House Cases 16 Wall 36, 21 L Ed 394 (1872); Edwards v. California, 314 US 160, 86 L Ed 119, 62 S Ct 164 (1941); Williams v. Fears, 179 US 270, 45 L Ed 186, 21 S Ct 128 (1900); Griffin v. Breckenridge, 403 US 88, 29 L Ed 2d 338, 91 S Ct 1790 (1971).

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without California judges years later retroactively violating these rights after exercising the constitutional right to change residence; (e) state judge intrusion into the sovereignty of courts foreign to California, and of the rights of residents of the foreign jurisdiction.

Upon the preposterous refusal-to-recognize-residence holding, the California judges--with the aid and comfort of federal judges and justices, destroyed every remnant of petitioner's personal and property rights.

Obviously, the argument was a sham, and subsequent evidence showed it to be a judicial scam to silence the air disaster whistleblower.

State Judge Violation of State Rights

The attack upon the 22 years old personal and property rights, relying for support on the cause of action specifically barred by the federal and state constitutions, violated (a) statute of limitations under state and federal law; (b) statutory requirement to recognize the 1966 divorce judgment, its confirmation as a California judgment, and the entry of the California-confirmed judgment in the courts of Nevada, Oklahoma, and Texas; (c) statutory requirement for conclusive presumption that the 1966

court acted in the lawful exercise of its jurisdiction when under collateral attack (Evidence Code § 666); (d) California constitution relating to property rights, due process and equal protection.

Absence of Personal/Subject Matter Jurisdiction

Under the California Family Law Act, an attack upon a prior divorce judgment is (a) specifically barred by clear and settled law; (b) does not meet the legal criteria of a domestic relations action and there is no jurisdiction under the California Family Law Aet.

Violated Protected Property Rights

All of petitioner's properties were acquired years after the 1964 abandonment of the Colorado marital residence by petitioner's former wife and acquired after the 1966 divorce judgment in which the court held there were no community properties. Under California law, and federal law, the properties were not community, and never had been, as shown by the titles. California judges lack jurisdiction over separate properties even if, for argument, the cause of action was a Family Law Act matter.

State Judicial Due Process Gridlock

Every relevant procedural due process remedy in Cali-

fornia law and Constitution was suspended. California judges and justices courts reversed the Supreme Court's definition of frivolous,[8] using that as a judicial scam to wrongfully dismissal the appeals and petitions, protect the civil and constitutional violators, and impose harsh financial sanctions upon the party seeking relief.

Great and Irreparable Harm

The preposterous civil and constitutional violations inflicted great and irreparable harm upon petitioner. Petitioner's income was halted since 1983. His home, his business, and his assets, were seized. His constitutionally protected liberty, privacy, quality of life, property rights, were destroyed. His business was eventually lost. Petitioner was converted from a multi-millionaire, using his assets in a public-spirited endeavor to expose and correct a major, ongoing, air safety/air disaster scandal that had expanded into a government and federal judiciary scandal. How much harm must a citizen suffer, before federal

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[8] Haines v. Kerner, 404 U.S. 519, 521-522 (1972); Anders v. California (1967) 386 U.S. 738 ("An appeal [or complaint] is not frivolous if "any of the legal points [are] arguable on their merits ...").

judges paid and entrusted to uphold the law, start meeting their responsibilities!

All of these constitutional outrages and injuries sought support in the cause of action that this Supreme Court held impermissible for the last 50 years, and that violated dozens of clear and settled California statutory laws, federal statutory and case laws, and fundamental constitutional rights.

Federal Due Process Gridlock

These massive violations of rights and protections under the laws and Constitution of the United States were alleged in petitioner's federal complaint (CV 88-1299-ML). Federal rules of civil procedure (FRCivP 12) and related case law[9] requires that the allegations stated in the complaint must be accepted as true to oppose dismissal or summary judgment, and that if federal causes of action of constitutional magnitude are raised, dismissal is barred.

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[9] Dennis v. Sparks 449 U.S. 24 (1980) ("a section 1983 complaint should not be dismissed unless it appears that the plaintiff can prove no set of facts which would entitle him to relief. ... For purposes of testing sufficiency of the complaint, the allegations of the complaint must be taken as true."); Gardener v. Toilet Goods Assn., 387 U.S. 167, 172 (1967); Conley v. Gibson, 355 U.S. 41, 45-47.

Petitioner's complaint raised numerous triable issues: (a) Were orders were rendered without personal and without subject matter jurisdiction; (b) were orders rendered after all trial court proceedings had been halted by the perfecting of notice of appeals; (c) were orders rendered after petitioner moved the action to federal court, where it remains at this time in the appeal stage. (C.A. No. 86-2261); (d) was the cause of action barred by decisions of the U.S. Supreme Court; were the Full Faith and Credit Clause and statutory embodiment, requiring recognition of the California confirmed judgment, and its entry as a local judgment in the courts of Nevada, Oklahoma, and Texas, violated; (e) was the cause of action was barred by numerous California laws and Constitutional provisions; (f) were numerous fundamental constitutional rights violated; (g) was the former wife barred from attacking the prior divorce judgment when she gave constructive notice to the world that she was divorced for the past two decades, invoking also the quasi estoppel rule; and numerous other questions.

Petitioner was entitled to determine whether the five divorce judgments establishing his personal and property

rights as of January 30, 1966, were controlling, or the July 28, 1988 judgment rendered by a California judge, on the basis of holdings held unconstitutional by the U.S. Supreme Court for the past half century, and blocks California and federal laws. At this time that matter has not been settled, and won't be settled until a federal court removes the judicial due process gridlock that has been erected.

The district court refused to conduct any hearings on petitioner's complaint, and dismissed the complaint sua sponte, violating additional case law barring sua sponte dismissals.[10] In addition, the dismissal order (Appendix

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[10] California Diversified Promotions, Inc., v. Musick, 505 F.2d 278 (9th Cir. 1974)("The fundamental requirements of due process is an opportunity to be heard upon such notice and proceedings as are adequate to safeguard the right for which the constitutional protection is invoked." Anderson National Bank v. Luckett (1944) 321 U.S. 233, 246.) Harmon v. Superior Court, 307 F.2d 796, 796 (9th Cir. 1962)(The right to a hearing on the merits of a claim over which the court has jurisdiction is of the essence of our judicial system, and the judge's feeling that the case is probably frivolous does not justify by-passing that right. Appellant is entitled to have process issued and served, and to be heard." Connally v. Gibson, (1957) 355 U.S. 41, 78 S.Ct. 99, 2 L.Ed.2d 80 (In appraising the sufficiency of the complaint, we follow of course the accepted rule that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitled him to relief. "the court must give notice of its sua sponte

"C") makes reference to an earlier injunctive order that unconstitutionally bars petitioner access to federal courts, to the protections of federal law and constitution, for major civil and constitution and RICO violations, for declaratory relief, previously committed, and to be committed, that had never been adjudicated, and never would be adjudicated.

In addition, the dismissal order makes reference to an alleged marital dissolution action in the California courts, which itself constitutes major civil and constitutional violations, and which Judge Schwartz knew was a legal impossibility because of the legal absence of a marriage, and the absence of jurisdiction under the California Family Law Act to attack prior judgments.

The key to these judicial aberrations is to understand that (a) the sham California "divorce" action was a government conspiracy to provide a base from which orders could be rendered to strip petitioner of constitu-

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intention to invoke Rule 12(b)(6) and afford plaintiffs 'an opportunity to at least submit a written memorandum in opposition to such motion," Crawford v. Bell, 599 F.2d 890, 893 (9th Cir. 1979), quoting Potter v. McCall, 433 F.2d 1087, 1088 (9th Cir. 1970).

tionally protected rights[11] and thus block petitioner's escalating exposure activities into the air disaster, government, and judicial scandal; (b) that the scheme had to be protected at all costs, especially after it backfired, and the source of the scheme, the federal courts, was recognized and exposed. The extreme gravity of the multifaceted scandal requires total judicial and constitutional due process gridlock, up to and including the U.S. Supreme Court, within Congress, and in every check and balance in the United States.

Never has petitioner been allowed to adjudicate the grave civil and constitutional violations. Every exercise of due process has been blocked by the Ninth Circuit judges and justices. The tactics wrongfully used to accomplish this blocking action included (a) reversing Supreme Court's definition of frivolous and applying the term to the exercise of due process to address scandalous and major civil and constitutional and RICO violations; (b) wrongful dismissal of major federal causes of action of constitutional magnitude; (c) rendering of outrageous injunctive

[11] Freedom, liberties, privacy, property.

orders forever barring petitioner access to the courts, and suspending for petitioner the rights and protections under the laws and Constitution of the United States, and simultaneously protecting those committing the violations.

Augmenting Due Process Gridlock

In addition to judicial due process gridlock, the trial court rendered an injunctive order beyond the court's jurisdiction, barring petitioner from filing any action, seeking relief, in any state or federal court, for the continuing massive numbers of civil and constitutional violations already committed, and which were never litigated, which were then being committed, or those yet to be committed--which were committed, aided and abetted by the federal judicial due process gridlock.

District Judge Milton Schwartz reversed the legal rights and protections serving as the criteria for rendering injunctive orders. Instead of rendering the injunctive order to protect petitioner against the great and irreparable harm, the injunctive order was rendered to protect the parties committing the harm, and barring the party suffering the harm from seeking relief.

Extension Of Due Process Suspension By Ninth Circuit Court Of Appeals

The Court of Appeals protected the massive due process violations by violating appellate rights and protections. Court of Appeals affirmed dismissals, repeatedly, despite the requirement to vacate the lower court judgments when (a) federal causes of action of constitutional magnitude were alleged in the complaint; (b) when the tactic of placing a frivolous label on constitutional outrages is used to circumvent the laws and Constitution of the United States; (c) when an illegal and unconstitutional injunctive order is rendered, outside the court's jurisdiction, forever suspending rights and protections to a party while the same party is suffering the terminal destruction of every human right found in the laws and Constitution of the United States.

The Court of Appeals justices had a simple task when petitioner filed the appeal of the district court's dismissal and the injunctive order. The standard for review for summary judgment the appellate court must conduct a de novo review, and determine whether the complaint stated

a cause of action.[12] If the allegations state a federal cause of action for which federal courts can provide relief, then it must vacate the dismissal/summary judgment. Obviously, petitioner's complaints stated many federal causes of action of great constitutional significance.

District Judge Schwartz held that petitioner's complaint, stating numerous federal causes of action, was dismissed on the basis of the earlier injunctive order he rendered, which suspended all rights under law and constitution. A frivolous holding is subject to de novo review on appeal.[13] The appellate justices violated this

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[12] "Summary judgment is granted as a matter of law. Therefore, the Appellate Court must review the facts anew, in favor of the non-moving party. Ashton v. Cory, 780 F.2d 816 (9th Cir. 1986)." On review, the appellate court must review grant of judgment on the pleadings de novo, taking all material allegations of the non-moving party as true and construing them in the light most favorable to that party. Judgment on the pleadings will not be granted unless "the allegations of the complaint itself clearly demonstrate that plaintiff does not have a claim." 5 C. Wright & A. Miller, Federal Practice & Procedure § 1357, at 604 (1969)." (Sinaloa Lake Owners Association v. City of Simi Valley, 89 C.D.O.S. 238, No. 86-6425 (9th Cir. Jan. 6, 1989).

[13] For the purpose of determining whether a complaint is "frivolous," the court presumes that the plaintiff's allegations are true. Franklin, 745 F.2d at 1228. In addition, courts must construe allegations in

due process right.

On appeal, the law requires reviewing court to accept the complaint and supporting affidavits as true. Gardener v. Toilet Goods Assn., 387 U.S. 167, 172 (1967). An action, "especially under the Civil Rights Act, should not be dismissed at the pleadings stage unless it appears to a certainty that plaintiffs are entitled to no relief under any state of the facts, which could be proved in support of their claims." Escalera v. N.Y. Housing Auth., 425 F.2d 853, 857 (2nd Cir. 1970). See also Conley v. Gibson, 355 U.S. 41, 45-7) 1957); Sherman v. Yakahi, 549 F.2d 1287, 1290 (9th Cir. 1977); Mark v. Gross, 521 F.2d 1376, 1378 (9th Cir. 1975); York v. Gross, 521 F.2d 1376, 1378 (9th Cir. 1975); York v. Story, 324 F.2d 450, 453 (9th Cir. 196-3).

The Behind-the-Scene Major National Scandal Giving Rise To the Judicial Attacks and Suspension of Law and Constitution By Every Level Of Federal Judiciary

This petition has come about as a result of petitioner's

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pro se complaints liberally. Shapley v. Nevada Bd. of State Prison Commrs, 766 F.2d 404, 408 (9th Cir. 1985)."

BEST AVA

discovery of a major, ongoing, air disaster scandal, in which the death toll from deeply entrenched air safety felonies and misconduct is going into the thousands. Petitioner discovered as part of his official federal inspector duties, criminal misconduct by persons misusing government office, which played and continues to play a causative and permissive role in brutal air tragedies.

Petitioner's official federal air safety responsibilities at the most crash-plagued airline in the United States were blocked by the FAA legal and management staffs, the National Transportation Safety Board, the Federal Bureau of Investigation, the Department of Justice, and the federal courts--as this Court already knows. The details of these crimes were brought to federal court attention, and that of the U.S. Supreme Court, in numerous federal actions.[14] The Department of Justice obstructed every at-

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[14] Stich v. United States, et al., 554 F.2d 1070 (9th Cir.) (table), cert. denied, 434 U.S. 920 (1977)(addressed hard-core air safety misconduct, violations of federal air safety laws, threats against government inspectors not to report safety violations and misconduct); Stich v. National Transportation Safety Board, 685 F.2d 446 (9th Cir.)(table), cert. denied, 459 U.S. 861 (1982))(addressed repeated criminal falsification of official airline accident reports, omitting highly sensitive air safety misconduct, making possible repeated crashes from the same sequestered

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tempt to expose the air disaster misconduct and petitioner's attempts to correct the crash-causing misconduct. This blockage actions followed petitioner's formal complaints to the Department of Justice, commencing in 1965; the 1974 action against the FAA; the 1975 amicus curiae brief in the Paris DC-10 crash litigation in the Central District of California; the 1980 action against the NTSB; and the 1987 criminal prosecution (E.D. Cal. CR 87-124) for filing federal actions exposing the misconduct and the obstruction of justice by the Justice Department and federal judges.

The federal courts blocked every attempt to expose and correct the crash-causing and permitting misconduct. In 1982 a judicial scheme was commenced in the Ninth Circuit courts, possibly ordered from higher authority, to

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problems); Amicus curiae brief filed on July 17, 1975, in the Paris DC-10 multi-district litigation, Flanagan v. McDonnell Douglas Corporation and United States of America, Civil Action 74-808-PH, MDL 172, Central District California.)(addressing the long standing FAA misconduct, of which the coverup of the DC-10 cargo door problem was one of repeated instances of tragedy related misconduct); U.S. v. Department of Justice, District of Columbia, Nos. 86-2523, 87-2214, and other actions filed by claimant seeking to expose and correct the powerful and covert air disaster misconduct.

silence petitioner by means of the sham California action. When petitioner sought relief from the onslaught of civil, constitutional, and RICO violations, it became necessary to violate large blocks of rights and protections under the Constitution and laws of the United States. As these violations became patently obvious as to their intent, to protect the earlier government and judicial misconduct, it became necessary for every level of the federal judiciary to suspend and violate every relevant protection in law and Constitution.

These judicial tactics are undermining our form of government. They are sacrificing the lives that will be lost from the obstruction with the exposure and correction of one of the nation's worst scandals.

Reasons For Granting the Writ

1. Supreme Court's supervisory responsibilities (Supreme Court Rule 17) over the lower federal courts. The Ninth Circuit judges and justices have embarked upon a pattern of total suspension of the laws and Constitution of the United States to protect the scheme to silence petitioner's threatening exposure activities. The obstruction of justice by dismissal of the earlier actions against the

FAA and NTSB, the judicial due process gridlock and misuse of the federal courts against petitioner, are tentacles of the judicial racketeering enterprise in the Ninth Circuit courts.

2. Supreme Court's responsibilities under Title 28 U.S.C. § 1343, Title 42 U.S.C. §§ 1983 and 1986, and other responsibilities as justices of the U.S. Supreme Court, and under criminal laws requiring reporting of criminal acts, especially those subverting the laws and constitution of the United States.

3. Supreme Court rule 26. The issues raised in the petition "aid in the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be had in any other form or from any other court."

4. The judicial anarchy of the Ninth Circuit, acting in concert, undermining the laws and Constitution of the United States, destroying the one party exercising responsibilities in the nation's worsening air disaster problems, and sacrificing the lives that will continue to be lost by the obstruction of justice.

5. Grave national interests of major importance are implicated, including (a) selective suspension of the laws and constitution of the United States to silence exposure of a major government and judicial scandal; (b) sacrificing of lives in the underlying air disaster scandal which the judicial misconduct seeks to cover up by blocking petitioner's exposure and corrective actions.

Exceptional circumstances include:

1. Judicial racketeering activities within the Ninth Circuit courts that far exceeds the Greylord Cook County judicial scandal, or the alleged wrongful acts of accused federal district Judge Robert Aquilar. Their malfeasance, misfeasance, obstruction of justice, racketeering activities, massive civil and constitutional violations, are corruptly suspending the laws and Constitution of the United States. The intent of these outrageous acts is to destroy petitioner's protected rights, barring him from exposing the correcting the misconduct, barring him from defending against the judicial scheme, and barring him from exposing the scheme openly perpetrated against him. These outrages knowingly sacrifice lives in fraud-related air tragedies, and are sufficient reasons for the Justices of the U.S.

Supreme Court to exercise their responsibilities, after the past 15 years of refusing to accept it.

ARGUMENT

I. The Complaint Stated A Record Number Of Civil And Constitutional Violations of Constitutional Magnitude, Invoking Mandatory Federal Court Jurisdiction, and Barring Dismissal

A record number of civil and constitutional violations of constitutional magnitude were stated in petitioner's complaint filed in the district court. (86-210) The complaint stated with sufficient specificity to meet federal pleadings requirements m

The mandatory responsibility of federal courts was articulated in Monroe v. Pape, 365 U.S. 167, 183 (federal courts have "the "unflagging obligation" of the federal courts to exercise the jurisdiction given to them.); Tovar v. Billmeyer, 609 F.2d 1291 (9th Cir. 1980) ("It is no answer that the State has a law which if enforced would give relief. The federal remedy is supplementary to the state remedy ...." This obligation is particularly weighty when those seeking a hearing in federal court are asserting, as the appellants are here, their right to relief under 42 U.S.C. § 1983."; Miofsky v. Superior Court of the State of

California, 703 F.2d 332 (9th Cir. 1983) ("... we must bear in mind the fundamental principle that federal courts have an "unflagging obligation" to exercise their jurisdiction.

II. The Ninth Circuit Abdicated Its Trust and Responsibilities As A Federal Appeals Court

The Ninth Circuit articulated its responsibilities in Matter of McLinn, 744 F.2d 683 (9th Cir. 1984), and made reference to its own abdication of responsibilities if they did not give de novo review of the district courts' decisions:

> To fulfill our role within the federal court structure, we should review all legal issues, whether of state or federal law, under the independent de novo standard. ... Indeed, this respect is inherent in the adversary system, which assigns to the appellant the duty to establish the errors in the trial court's decision.

Summary judgments must be reviewed de novo, to determine whether the complaint stated any federal cause of action. Petitioner's complaint stated a shocking number of major violations of federal question rights, for which federal courts had mandatory jurisdiction responsibilities. It is obvious that the Ninth Circuit pattern of solid judicial due process gridlock extended into the Court of Appeals, duplicating the repeated denial of due process and equal protection, and repeated protection of those committing

the federal violations.

The Ninth Circuit Court of Appeals affirmed the district court's summary judgment, omitting reference to the major causes of action, omitting reference to the major civil and constitutional violations raised in petitioner's complaints. The Court of Appeals affirmance protected violations committed by the district court, including the blatantly unconstitutional injunctive order.

The Ninth Circuit approved the injunctive order that suspended the laws and Constitution of the United States, and which was then used to sentence petitioner to prison for seeking relief in federally guaranteed due process right to federal court relief, for those yet to perish in air tragedies made possible by the misconduct, and seeking relief from the continuing barrage of civil and constitutional violations.

The Ninth Circuit approved the gross, and crass, violations of civil and constitutional violations committed by the state and federal judges, and the San Francisco law firm of Friedman, Sloan and Ross, who acted as a "front" in the air tragedy riddled racketeering enterprise. Every action by the district and appellate courts were to protect

the Friedman law firm and their grotesque violations of civil and constitutional rights.

Sequestering the Violations

The Ninth Circuit addressed none of the multitude of civil and constitutional violations, which they are required to review de novo. The Ninth Circuit approved, and covered up for, the massive violations committed in their circuit by the state and federal courts. And in the process, they continued sacrificing the lives that would be lost in selected air tragedies, just as they did when they wrongfully affirmed the corrupt dismissal of the 1974 and 1980 actions against the FAA and NTSB.

Misstating the Facts and Law

The Ninth Circuit affirmance decision totally misstated the cause of action in the California courts, protecting one of the most outrageous judicial racketeering enterprises yet exposed in U.S. judicial history. The Ninth Circuit affirmance decision deliberately and fraudulently circumvented the issues, misstated the facts, abdicated their responsibilities, and used the same sordid ploys used by the civil and constitutional violators in the state action. In their affirmance decision, the Ninth Circuit open-

ly misstated the facts:

> Rodney Stich appeals pro se the district court's grant of summary judgment in favor of the defendants in a civil rights action arising out of a divorce action brought in California Superior Court by Stich's wife.
>
> The judgment must be affirmed. The district court did not have jurisdiction to hear a core domestic relations case in which "a federal court is asked to grant a divorce or annulment, determine support payments, or award custody of a child." Csibi v. Fustos, 670 F.2d 134, 137 (9th Cir. 1982).
> Judgment Affirmed.

In typical Ninth Circuit fashion, Csibi states the very opposite, making clear that the abstention is narrowly construed, and making it clear that it would not apply where a federal court must decide which one of five divorce judgments, from different jurisdictions, are to be recognized under the Federal Supremacy Clause rights.

The Supreme Court has repeatedly held that it is federal court responsibility to halt attacks upon divorce judgments rendered by courts in other jurisdictions. As it now remains, petitioner's personal and property rights are legally recognized as accruing from a 1966 divorce judgment in judgments confirmed as a California judgment in the Superior Court, Contra Costa County (251773), entered in the courts of Nevada, Oklahoma, and Texas. But

now there is another action, seeking to enter an entirely different judgment, totally changing the rights and protections established in the five earlier judgments.

Obviously--even to Ninth Circuit judges and justices--this serious contradiction can only be addressed by federal courts, who are paid, and entrusted with the responsibilities, to provide such relief.

The Ninth Circuit fraudulently classified the California action as a divorce action even though (a) they knew five divorce judgments legally established petitioner's divorced status for the past 22 years, barring the possibility of a domestic relations divorce action 22 years after the fact; (b) that the cause of action (retroactive refusal to recognize exercise of personal jurisdiction on residence) was blatantly illegal and unconstitutional under federal law; (c) that under California law the attack upon a prior divorce judgment was barred; (d) that under the California Family Law Act, the attack upon any prior divorce judgment is not considered a domestic relations action, and is specifically barred under the Act; (e) that the attack upon the 1966 judgment was without personal and without subject matter jurisdiction under California law; (f) that the

state judges were violating dozens of California statutes, rules of Court, doctrines of law, California Constitutional provisions, California Supreme Court decisions.

The Ninth Circuit Court of Appeals decision knowingly protected and failed to address the multiple violations of federally protected rights, including (a) Right of non-California residents to obtain a divorce in their residence of jurisdiction, without interference by a California judge, years later, violating a multitude of rights and protections under state and federal law; (b) the right to unabridged interstate travel; (c) intrusion into the sovereignty of jurisdictions foreign to California, and taking protected rights of residents of such foreign jurisdictions; (d) and many other rights stated herein.

The Ninth Circuit wrongfully implies that placing a domestic relations label on a cause of action suspends all due process and equal protection under the laws and Constitution of the United States.

The Ninth Circuit courts have repeatedly, on at least 15 different occasions, violated petitioner's due process and equal protection rights. They did this in the 1974 action against the FAA, the 1975 Paris DC-10 action, the 1980

action against the NTSB, which made federal judges accessory before the fact, at the fact, and after the fact.

Summary judgment appellate review is de novo. If the record, which must be viewed in the light most favorable to petitioner, shows issues of material fact, or federal causes of action, the summary judgment must be vacated. There is no possibility that the district court, and the appellate court, could have failed to recognize the multitude of issues and federal causes of action. They both lied.

These absurd constitutional violations were not judicial ignorance. They all knew what they were doing, and they were engaging in a judicial racketeering enterprise to silence exposure of the world's worst air disaster and superimposed government and judicial scandal.

III. Petitioner Is Suffering Great and Irreparable Harm From A Pattern Of Ninth Circuit Due Process Gridlock, Invoking Supreme Court responsibilities

Solely on the cause of action that had been held unconstitutional by the U.S. Supreme Court for the past 50 years, with superimposed massive violations of state and federal laws and Constitution, petitioner has suffered great and irreparable harm, including: (a) halting peti-

tioner's sole source of income for the past six years; (b) destroyed his credit worthiness, which will continue for the remainder of petitioner's life; (c) seized his properties, converting him from a multi-millionaire, devoting his assets to the public's air safety welfare, into a state of poverty; (d) caused the loss of petitioner's retirement home; (e) caused the loss of petitioner's business; (f) caused stress-induced open heart surgery; (g) grossly invaded petitioner's privacy; (h) destroyed his quality of life; (i) sentenced petitioner to prison.

In addition, the constitutional outrages and due process gridlock blocking relief, and blocking petitioner's correction of the sequestered air disaster misconduct, continues to result in horror and deaths in air tragedies made possible or caused by the misconduct, the coverup, and the judicial attacks upon petitioner. Every federal court that had an opportunity to provide a federal court forum and relief, and blocked those remedies, violated their trust and the laws and Constitution of the United States, knowingly sacrificing little children and others who paid the price for coverup in air tragedies arising from the misconduct petitioner seeks to correct.

IV. The Supreme Court Justices Have A Long Overdue Responsibility To Grant A Hearing, Temporary Injunctive Relief, and To Vacate All Adverse Federal Court Decisions Arising Out of the Litany Of Constitutional Violations

The Supreme Court has a supervisory responsibility over the district and appellate courts. The blatantly unconstitutional suspension of all due process, using grossly illegal injunctive orders to accomplish this judicial tactic, dismissing all law suits seeking relief, and protection those committing felonies, RICO Act violations, gross civil and constitutional violations, has to be addressed by this court. It simply cannot go on, without worsening an already major national scandal.

Under Title 28 U.S.C. § 1343 and 42 U.S.C. §§ 1983, 1985, 1986, the justices of the Supreme Court have at least the same responsibilities as the average citizen, if not much greater, to prevent or aid in the prevention of violations rights and privileges under the laws and constitution of the United States. Since the judicial attacks upon petitioner are closely related to some of the nation's--and the world's--most brutal air tragedies, it is an insult to those yet to die, for this court not to exercise its

responsibilities! The fallout from the judicial insurrection in the Ninth Circuit includes subversion of our form of government, subversion of the laws and Constitution of the United States. This too, invokes Supreme Court responsibilities.

This Court has been informed of the air safety/air disaster scandal in earlier actions, and in at least a dozen applications to the Court. It is aware of the scheme to silence petitioner's exposure of the air disaster and superimposed judicial scandal. It is aware of the prison sentence to silence petitioner's exposure activities. This court is aware of the corrupt and unconstitutional seizure and destruction of petitioner's estates. This court is aware of the shocking judicial outrages, perversion of the rights and protections under the laws and constitution of the United States. In every instance the Supreme Court has protected the violators, while abdicating its responsibilities. The time for exercising this court's jurisdiction and responsibilities is long over due.

CONCLUSION

Major constitutional violations emanating from the entire Ninth Circuit judicial circuit are raised in this peti-

tion that shocks the conscience. A major judicial conspiracy threatening our form of government, and selective suspension of the laws and constitution of the United States are obvious. Less obvious, but real, is the sacrifice of lives of little children and others in the underlying air disaster scandal.

These multiple and repeated illegal and unconstitutional acts by the Ninth Circuit judges and justices are not isolated and independent acts of legal and constitutional stupidity. They arise in a judicial conspiracy that constitutes the nation's worst judicial scandal.

The Ninth Circuit has protected each of these major constitutional outrages and enlarged upon them. The web of intrigue has reached the point where it is a threat to our form of government, and continues the sacrifice of life in the underlying air disaster scandal.

A hearing is long overdue. Injunctive relief is overdue. And petitioner appears before the Supreme Court, with a vested interest in protecting the constitutional outrages.

Dated: July 1, 1989.

RODNEY F. STICH
Petitioner in pro se

VERIFICATION

I, Rodney F. Stich, declare:

I am the petitioner in the foregoing petition for writ of certiorari. The contents are true to the best of my knowledge.

Executed t 1st day of July 1989, in the town of Alamo, State of California. I declare under penalty of perjury that the foregoing is true and correct.

_____

Rodney F. Stich

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

Filed

May 10, 1989

Rodney F. Stich, et al. No. 88-15802

Plaintiff-Appellant, D.C. No. CV-S-88-1299-MLS

vs.

Dennis Bunting, Judge, Superior Court of the County of Solano, State of California; State of California; et al

Defendants-Appellees.

/

Appeal from the United States District Court for the Eastern District of California (Sacramento).

On consideration whereof, It is now here ordered and adjudged by this Court, that the appeal is inthis Cause b, and hereby is dismissed.

various state law violations all growing out of, or related to, the state court proceeding involving dissolution of his marriage to Emma Stich, named herein as a defendant. This case was initially assigned to Judge Edward J. Garcia, but it was later determined to be related to *Stich v. Jensen*, Civ. S-86-210 MLS, pursuant to Federal Rule of Evidence 201, that this complaint was filed in direct contravention of this court's July 30, 1986 Order in the related action. That order bars plaintiff from filing any further actions which in any way relate to issues raised in that case or any of the otheer cases filed by plaintiff in state or federal court. Because this court has determined that plaintiff's present complaint relates to issues already raised in the related action, inasmuch as it arises out of the dissolution proceeding, it is dismissed sua sponte in its entirety.

It is so ordered.

Dated: December 13, 1988

Milton L. Schwartz

DECLARATION OF SERVICE BY MAIL

I declare that I am a resident of the County of Contra Costa, State of California. I am over the age of eighteen years, and not a party to the action described herein. My address is 43 Diablo Creek Place, Danville, California 94526. On July 6, 1989 I served the attached petition for hearing on the below parties in the above action, by placing a true copy in a sealed envelope with sufficient postage prepared, in the United States mail at Alamo, California, addressed as follows:

U.S. Court of Appeals
P.O. Box 547
San Francisco, CA 94101

Friedman, Sloan and Ross
1040 Alcoa Bldg, 1 Maritime Plaza
San Francisco, CA 94104

U.S. District Court
Federal Building
Sacramento, CA 95418

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on June 6, 1989.

_____
Stephanie A. Stadtler